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EXAMINER

MILEF, ELDA G

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ERIN E. DRAKELEY, MIKE AMATUCCI, LOU IANNUCCI,
JOHN C. McDONOUGH, and DAVID MCLURE

Appeal 2009-003098
Application 09/371,687
Technology Center 3600

Decided: September 16, 2009

Before MURRIEL E. CRAWFORD, JOSEPH A. FISCHETTI, and BIBHU
R. MOHANTY, *Administrative Patent Judges*.

MOHANTY, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

The Appellants seek our review under 35 U.S.C. § 134 (2002) of the final rejection of claims 83-109 which are all the claims pending in the application. We have jurisdiction under 35 U.S.C. § 6(b) (2002). Oral arguments were presented by telephone on Sept. 9, 2009.

SUMMARY OF THE DECISION

We REVERSE.

THE INVENTION

The Appellants' claimed invention is directed to a method where an account of a second party is which is accessed by inputting identification information for the account (such as a user ID), and receiving account information for the account based on the identification information. A first party can access the account without knowing the second party's password. (Spec. 1:18-26). Claim 83, reproduced below, is representative of the subject matter of appeal.

83. A method for displaying, to a pretender, a view and information that is also displayed to a particular party, the method comprising:
- receiving, through a first web page generated by first code, pretender identification information associated with a pretender;
 - using the pretender identification information to identify a set of applications available to the pretender;
 - receiving, through a second web page generated by the first code, information selecting an application from the set of applications, and an account identifier representative of an account of the particular party;

on the basis of the pretender identification information and the account identifier, verifying that the pretender is authorized to access the account; and

causing the first code to generate a third web page that displays, to the pretender, a view and information that is the same as a view and information of a web page that would be displayed to the particular party were the particular party to access the account through a selected application, the selected application being identified by the information selecting an application from the set of applications

wherein a first browser displays the view and information to the pretender, and

wherein a second browser, which differs from the first browser, would display the view and information to the particular party.

THE REJECTIONS

The Examiner relies upon the following as evidence in support of the rejections:

Parker	US 5,729,734	Mar. 17, 1998
Northington	US 6,128,602	Oct. 3, 2000
Fin	US 6,240,444 B1	May 29, 2001
Roberts	US 6,754,693 B1	Jun. 22, 2004
Ellmore	US 7,058,817 B1	Jun. 6, 2006

The following rejections are before us for review:

1. Claims 83-85, 88, 90-94, 97, 99-103, 106, and 108-109 are rejected under 35 U.S.C. § 103(a) as unpatentable over Roberts and Ellmore.
2. Claims 86, 95, and 104 are rejected under 35 U.S.C. § 103(a) as unpatentable over Roberts, Ellmore and Fin.
3. Claims 87, 96, and 105 are rejected under 35 U.S.C. § 103(a) as unpatentable over Roberts, Ellmore, Fin, and Northington.

4. Claims 89, 98, and 107 are rejected under 35 U.S.C. § 103(a) as unpatentable over Roberts, Ellmore and Parker.

THE ISSUE

At issue is whether the Appellants have shown that the Examiner erred in making the aforementioned rejections.

This issue turns on whether Roberts and Ellmore disclose “receiving, through a second web page generated by the first code, information selecting an application from the set of applications, and an account identifier representative of an account of the particular party”.

FINDINGS OF FACT

We find the following enumerated findings of fact (FF) are supported at least by a preponderance of the evidence:¹

FF1. Roberts discloses a method where a user’s computer displays shared content that corresponds to a second computers display such that both parties will be viewing a copy containing the same content on their browsers (Abstract).

FF2. Roberts in Fig. 1 shows a user’s computer 12 containing an applet 22 and second computer 24 containing an applet 30. Each computer has a respective display and browser. The computers are connected to a network 16.

¹ See *Ethicon, Inc. v. Quigg*, 849 F.2d 1422, 1427 (Fed. Cir. 1988) (explaining the general evidentiary standard for proceedings before the Patent Office).

FF3. Roberts in Col. 10:58-11:6 discloses that a server 20 ascertains what type of computer is requesting an applet using sign-on pages or information sent by the browsers. The server then downloads an applet 22 capable of generating a user view 90 and functionality that the user computer 12 requires.

FF4. Roberts in Col. 12:16-26 disclose that views such as a sales view 50, user view 90, and an administrative view 36 can be generated by the applet and disposed on one computer.

FF5. Roberts does not specifically disclose “receiving, through a second web page generated by the first code, information selecting an application from the set of applications, and an account identifier representative of an account of the particular party”.

FF6. Ellmore discloses a method for a single sign on process for websites with multiple applications and services (Title).

FF7. Ellmore’s provisional application 60/142,118 discloses that in a Sign Up link that a ID and password can be used (pages 9-11) which provides support for using an account identifier with user identification to authorize access.

PRINCIPLES OF LAW

“Section 103 forbids issuance of a patent when ‘the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.’” *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 406

(2007). The question of obviousness is resolved on the basis of underlying factual determinations including (1) the scope and content of the prior art, (2) any differences between the claimed subject matter and the prior art, (3) the level of skill in the art, and (4) where in evidence, so-called secondary considerations. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18 (1966). *See also KSR*, 550 U.S. at 407 (“While the sequence of these questions might be reordered in any particular case, the [*Graham*] factors continue to define the inquiry that controls.”) In *KSR*, the Supreme Court emphasized “the need for caution in granting a patent based on the combination of elements found in the prior art” *id.* at 415-16.

ANALYSIS

The Appellants argue that the rejection of claim 83 is improper because the claim limitation for “receiving, through the second web page...information selecting an application from a set of applications” cannot be met by Roberts (Supp. Br. 5-6). The Appellants argue that in Roberts that with the use of the applet in the system that there would never be a need for a selection step since the identification information provided by the user has already selected an applet (Supp. Br. 6). The Appellants argue Roberts discloses only a single step using the ID to directly select the application and that there is no separate selection of “an application from a set of applications” (Reply Br. 2).

In contrast the Examiner has determined that Roberts discloses the cited limitation in col. 10:58-11:6 and col. 12:16-26 (Ans. 4, 11) through the use of the downloaded user applet.

We agree with the Appellants. We note initially that the Ellmore reference, to the extent it has been used in the rejection, is a proper reference since it is given benefit to the provisional application 60/142,118 filed Jul. 2, 1999². Claim 83 requires in part:

[R]eceiving, through a *second web page* generated by the first code, *information selecting an application from the set of applications*, and an account identifier representative of an account of the particular party (emphasis added).

Roberts discloses a method where a user's computer displays shared content that corresponds to a second computers display such that both parties will be viewing a copy containing the same content on their browsers (FF1). Roberts discloses that a server downloads an applet 22 capable of generating a user view 90 and functionality that the user computer 12 requires (FF3). Roberts also discloses that views such as a sales view 50, user view 90, and an administrative view 36 can be generated by the applet and disposed on one computer (FF4). Roberts does not specifically disclose "receiving, through a *second web page* generated by the first code, *information selecting an application from the set of applications*, and an account identifier representative of an account of the particular party" (FF5) as claim 83 requires and the Examiner has not asserted that Ellmore does. Roberts does not disclose receiving a second web page and the "information selecting an application from the set of applications" (FF5) and the applet in contrast generates the views (FF3). For these reasons the rejection of claim 83, and

² The Examiner has stated that the Ellmore reference was only used to show using an account identifier with user identification to authorize access (Ans. 10). Support for this subject matter is found in the respective provisional application 60/142,118 at pages 9-11 (FF7).

its dependent claims, is not sustained. Claims 92 and 101 contain similar limitations and the rejection of these claims as well as there dependent claims is not sustained for these same reasons.

CONCLUSIONS OF LAW

We conclude that Appellants have shown that the Examiner erred in rejecting claims 83-85, 88, 90-94, 97, 99-103, 106, and 108-109 under 35 U.S.C. § 103(a) as unpatentable over Roberts and Ellmore.

We conclude that Appellants have shown that the Examiner erred in rejecting claims 86, 95, and 104 under 35 U.S.C. § 103(a) as unpatentable over Roberts, Ellmore and Fin.

We conclude that Appellants have shown that the Examiner erred in rejecting claims 87, 96, and 105 under 35 U.S.C. § 103(a) as unpatentable over Roberts, Ellmore, Fin, and Northington.

We conclude that Appellants have shown that the Examiner erred in rejecting claims 89, 98, and 107 under 35 U.S.C. § 103(a) as unpatentable over Roberts, Ellmore and Parker.

DECISION

The Examiner's rejection of claims 83-109 is reversed.

REVERSED

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MP

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